
THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

UNITED STATES OF AMERICA,
Plaintiff,
v.
MARLON ALONZO SMITH,
Defendant.

**MEMORANDUM DECISION AND
ORDER DISMISSING MOTION
TO COMPEL COUNSEL TO
RELEASE FILES AND RECORD**

Case No. 2:16-cr-00020-DN
District Judge David Nuffer

Defendant seeks an order compelling defense counsel to turn over to him all records and files in the case (“Motion”).¹ However, final judgment² has entered in this case and the Tenth Circuit Court of Appeals has affirmed Defendant’s conviction and sentence.³

“After entry of final judgment, a district court has jurisdiction only to the extent permitted by statute or rule.”⁴ And the district court’s original jurisdiction under [18 U.S.C. § 3231](#) does not confer “jurisdiction over all post-conviction motions.”⁵ Defendant cites no legal authority that would confer jurisdiction over his Motion. The Tenth Circuit Court of Appeals has also held that the district court lacks jurisdiction to address the merits of post-conviction motions to compel counsel to provide a criminal defendant with counsel’s case file.⁶ Therefore,

¹ Motion to Compel Counsel to Release Files and Record (“Motion”), [docket no. 248](#), filed Sept. 30, 2022.

² Judgment in a Criminal Case, [docket no. 181](#), filed Oct. 2, 2018.

³ Order and Judgment, [docket no. 200](#), filed Feb. 25, 2020.

⁴ [*United States v. James*](#), 728 Fed. App’x 818, 822 (10th Cir. 2018).

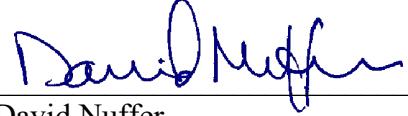
⁵ *Id.*

⁶ *Id.*; [*United States v. Garcia-Herrera*](#), 894 F.3d 1219, 1220 (10th Cir. 2018); [*United States v. Benitez*](#), 720 Fed. App’x 509, 510-11 (10th Cir. 2018).

IT IS HEREBY ORDERED that Defendant's Motion⁷ is DISMISSED for lack of jurisdiction.

Signed October 11, 2022.

BY THE COURT



David Nuffer
United States District Judge

⁷ Docket no. 248, filed Sept. 30, 2022.